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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/097,307 06/12/98 NARASIMHAN

A 02964.P004



EXAMINER

WM01/0326

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN  
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR  
LOS ANGELES CA 90025

LOGSTON, T

ART UNIT

PAPER NUMBER

2662

DATE MAILED:

03/26/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/097,307	NARASIMHAN ET AL.
	Examiner Joe Logsdon	Art Unit 2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

15) <input type="checkbox"/> Notice of References Cited (PTO-892)	18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	20) <input type="checkbox"/> Other: _____.

**Claim Rejections—35 U.S.C. 112, First Paragraph:**

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 8, 9, and 12-14 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 8 and 9 require that the second server dials a destination device. But the specification nowhere suggests that a server or any device that could reasonably be considered a server sets up a connection or dials a destination device.

Claim 12 recites the step of checking rates of available resources to determine a least cost resource. The specification does not discuss rates of resources and does not discuss the minimization of a cost function. The specification only discusses the determination of whether a resource or line is working or is not working (page 8, lines 20-24; page 12, lines 4-7; page 10, lines 16-18; page 12, lines 10-24). This issue is not the same as the issue of minimization of a cost function. For example, a trivial message that uses working resources that could have been used by an important message may be more costly than foregoing the trivial message altogether. Furthermore, when two different resources are both functional, one resource is typically less costly than the other resource—depending on the definition used for “cost.” The specification

does not address the issue of how a resource is selected from among a group of functional resources.

Claims 13 and 14 depend on claim 12 and are therefore similarly rejected.

3. Claims 8, 9, and 12-14 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 8 and 9 require that the second server dials a destination device. But the specification nowhere suggests that a server or any device that could reasonably be considered a server sets up a connection or dials a destination device. The specification therefore fails to enable one of ordinary skill in the art to make or use the invention as claimed.

Claim 12 recites the step of checking rates of available resources to determine a least cost resource. The specification does not discuss rates of resources and does not discuss the minimization of a cost function. The specification only discusses the determination of whether a resource or line is working or not working (page 8, lines 20-24; page 12, lines 4-7; page 10, lines 16-18; page 12, lines 10-24). This issue is not the same as the issue of minimization of a cost function. For example, a trivial message that uses working resources that could have been used by an important message may be more costly than foregoing the trivial message altogether. Furthermore, when two different resources are both functional, one resource is typically less costly than the other resource—depending on the definition used for “cost.” The specification does not address the issue of how a resource is selected from among a group of functional

resources. The specification therefore fails to enable one of ordinary skill in the art to make or use the invention as claimed.

Claims 13 and 14 depend on claim 12 and are therefore similarly rejected.

### **Claim Rejections—35 U.S.C. 112, Second Paragraph:**

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 recites “and optionally an error log.” It is unclear whether the ability of the message queue to receive an error log is a necessary element of the invention as claimed. According to one interpretation of claim 10, the message queue is capable of receiving an error log, but the sending of the error log to the message queue is optional. According to another interpretation, the message queue of the invention is not necessarily capable of receiving an error log. Claim 11 depends on claim 10 and is therefore similarly rejected.

### **Claim Rejections—35 U.S.C. 102(e):**

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Kelly. Kelly discloses an automatic call distribution (ACD) system that comprises an ACD server and at least two communicating data networks, which can use different formats, e.g., some of the data networks can be circuit-switched and others packet-switched (column 3, lines 40-44); the ACD server receives calls on either a circuit-switched or a packet-switched network and routes the calls to other networks (column 3, lines 40-44; column 14, lines 50-52; one of these networks can comprise users, and the other can comprise agent processes with which the users wish to communicate (abstract)). The ACD server comprises a message queue and a routing module, which handle call routing (column 12, lines 28-31; column 14, lines 17-38). The ACD server also contains an optional database, which can verify whether messages are from or to a customer (column 10, lines 7-10; column 10, lines 66-67). The ACD system further comprises a control center that dynamically configures the agent processes to which calls are transferred. The ACD system also includes a server (WebPhone Gateway Exchange) that is coupled to the network of the users (PSTN) and a third network type (WebPhone network) (Fig. 2B). Both servers transfer text or audio or video or bitmap data, which can all be in the form of packets (column 10, lines 26-32).

**Claim Rejections—35 U.S.C. 103(a):**

8. The rejection of claim 1 under 35 U.S.C. 103(a) is withdrawn.

### **Response to Arguments:**

9. Fig. 2 in the application reveals aspects of the claimed invention that are not taught in the prior art of record. The first server mentioned in claim 1 is coupled *only* to the internal data network; this limitation is not mentioned in claim 1. The ACD server in Kelly is coupled to at least two networks as well as to the WebPhone Gateway Exchange. Furthermore, the second server mentioned in claim 1 is *not* coupled to the external data network; this limitation is not mentioned in claim 1. The WebPhone Gateway Exchange in Kelly is coupled to at least two networks as well as to the ACD server. Similarly, unlike Kelly the database mentioned in claim 1 is not coupled to the external data network; this limitation is also not mentioned in claim 1. Incorporation of these limitations into claim 1 would result in a more positive evaluation.

Applicant argues that the “Webphone network” depicted in Fig. 2B is not a network. According to column 3, lines 40-65, the call center agents are effectively grouped into a network—where the network could be a virtual network. The agents use the ACD server to enable the agents to perform their tasks; the ACD server serves a centralized management function for the network. The Webphone network is therefore a client-server network.

### Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Logsdon whose telephone number is (703) 305-2419. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on (703) 305-4744.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

11. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

(703) 308-6743

For informal or draft communications, please label "PROPOSED" or "DRAFT".

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Joe Logsdon

Patent Examiner

March 12, 2001



HASSAN KIZOU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600